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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/190,043 11/10/98 HOUCK

J 47.653.2

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EXAMINER

BORIN, M

ART UNIT

PAPER NUMBER

1654

5

DATE MAILED:

05/24/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/190,043

Applicant(s)
Houck et al.

Examiner
M. Borin

Group Art Unit
1654



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-20 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Part III DETAILED ACTION

Claims 1-20 are currently pending.

Restriction Requirement

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 1-3 drawn to method of treating of allergy reaction, classified in class 514, subclass 18.
- II. Claims 4-6 drawn to method of treating cutaneous inflammation, classified in class 514, subclass 18.
- III. Claims 7,8, drawn to method of treating arthritis, classified in class 514, subclass 825.
- IV. Claims 9-10, drawn to method of treating chronic obstruction pulmonary disease, classified in class 514, subclass 18.
- V. Claims 11,12, drawn to method of treating chronic inflammatory bowel disease, classified in class 514, subclass 18.
- VI. Claim 13, drawn to method of inhibiting infiltration of eosinophils, classified in class 514, subclass 18.
- VII. Claim 14 drawn to method of inhibiting mucous release, classified in class 514, subclass 18.
- VIII. Claims 15,16 drawn to method of blocking IgE activation, classified in class 514, subclass 18.

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- IX. Claims 17, 18 drawn to method of stabilizing lymphocyte cell membranes, classified in class 514, subclass 18.
- X. Claims 19, 20 drawn to method of inhibiting migration of T cells, classified in class 514, subclass 18.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-X are related as independent and/or distinct methods which are not connected in design, operation or effect. These methods are independent if it can be shown that (1) they are not disclosed as capable of use together, (2) they have different modes of operation, (3) they have different functions, or (4) they have different effects. (MPEP 806.04, MPEP 808.01). The methods of Groups II-XI have different functions, different effects and different modes of operation. A reference teaching one method (e.g., treatment of chronic inflammatory bowel disease) will not teach or suggest another method (e.g., treatment of allergy or inhibition of mucous release in airways). Further, each method has separate enablement requirements. Further, methods of Group I-V are drawn to treatment of patentably distinct disorder conditions which are patentably distinct because the disorder conditions are not related to each other, have different mechanisms of development and etiology.

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Because these inventions are distinct for the reasons given above, have acquired a separate status in the art because of their recognized divergent subject matter, and the necessity for non-coextensive literature searches, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Borin whose telephone number is (703) 305-4506. Dr. Borin can normally be reached between the hours of 8:30 A.M. to 5:00 P.M. EST Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Cecilia Tsang can be reached on (703) 308-0254. The fax telephone number for this group is (703) 305-3014.

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Any inquiry of a general nature or relating the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

May 19, 1999

mlb

MICHAEL BORIN, PH.D
PATENT EXAMINER

